

poses of this paragraph, the terms “electric utility”, “State agency”, “Federal agency”, and “ratemaking authority” have the respective meanings given such terms in section 2602 of title 16.

(Pub. L. 102-486, title X, §1018, Oct. 24, 1992, 106 Stat. 2950; Pub. L. 104-134, title III, §3117(b), Apr. 26, 1996, 110 Stat. 1321-350.)

#### REFERENCES IN TEXT

Section 2297b of this title, referred to in par. (1), was repealed by Pub. L. 104-134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321-349.

#### CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

#### AMENDMENTS

1996—Par. (1). Pub. L. 104-134 inserted “or its successor” before period at end.

### Division B—United States Enrichment Corporation

#### SUBCHAPTER I—GENERAL PROVISIONS

#### **§§ 2297, 2297a. Repealed. Pub. L. 104-134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321-349**

Section 2297, act Aug. 1, 1946, ch. 724, title II, §1201, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2923, defined terms for purposes of this division.

Section 2297a, act Aug. 1, 1946, ch. 724, title II, §1202, as added Oct. 24, 1992, Pub. L. 102-486, title IX, §901, 106 Stat. 2924, related to purposes of United States Enrichment Corporation.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 104-134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321-349, provided that: “Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297-2297e-7) are repealed as of the privatization date [July 28, 1998, see 42 U.S.C. 2297h(9) for definition of privatization date as date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors].”

#### SEVERABILITY

Pub. L. 102-486, title IX, §904, Oct. 24, 1992, 106 Stat. 2946, provided that: “If any provision of this title [see Tables for classification], or the amendments made by this title, or the application of any provision to any entity, person, or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.”

#### REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

Pub. L. 104-134, title III, §3116(e), Apr. 26, 1996, 110 Stat. 1321-350, provided that: “Following the privatization date [July 28, 1998, see Effective Date of Repeal note above], all references in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] to the United States Enrichment Corporation shall be deemed to be references to the private corporation.”

#### SUBCHAPTER II—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

#### **§§ 2297b to 2297b-15. Repealed. Pub. L. 104-134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321-349**

Section 2297b, act Aug. 1, 1946, ch. 724, title II, §1301, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106

Stat. 2925, related to establishment of United States Enrichment Corporation.

Section 2297b-1, act Aug. 1, 1946, ch. 724, title II, §1302, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2925, related to offices of Corporation and service of process.

Section 2297b-2, act Aug. 1, 1946, ch. 724, title II, §1303, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2925, related to powers of Corporation.

Section 2297b-3, act Aug. 1, 1946, ch. 724, title II, §1304, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2926, related to Board of Directors of Corporation.

Section 2297b-4, act Aug. 1, 1946, ch. 724, title II, §1305, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2927, related to employees of Corporation.

Section 2297b-5, act Aug. 1, 1946, ch. 724, title II, §1306, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2928, related to independent and Comptroller General audits of Corporation’s financial statements.

Section 2297b-6, act Aug. 1, 1946, ch. 724, title II, §1307, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2929, related to annual reports by Corporation to President and Congress.

Section 2297b-7, act Aug. 1, 1946, ch. 724, title II, §1308, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2929, related to accounts and transfer of unexpended balances.

Section 2297b-8, act Aug. 1, 1946, ch. 724, title II, §1309, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2930, related to bonds, notes, and other evidences of indebtedness.

Section 2297b-9, act Aug. 1, 1946, ch. 724, title II, §1310, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2931, related to exemption from State and local taxes and payments in lieu of such taxes.

Section 2297b-10, act Aug. 1, 1946, ch. 724, title II, §1311, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2931, related to cooperation with other agencies.

Section 2297b-11, act Aug. 1, 1946, ch. 724, title II, §1312, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2932, related to applicability of certain Federal laws.

Section 2297b-12, act Aug. 1, 1946, ch. 724, title II, §1313, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2933, related to security of Corporation facilities, equipment, etc.

Section 2297b-13, act Aug. 1, 1946, ch. 724, title II, §1314, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2933, related to control of information.

Section 2297b-14, act Aug. 1, 1946, ch. 724, title II, §1315, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2933, related to governance of Corporation during transition period prior to appointment of Board.

Section 2297b-15, act Aug. 1, 1946, ch. 724, title II, §1316, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2934, related to establishment of Working Capital Account.

#### EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

#### SUBCHAPTER III—RIGHTS, PRIVILEGES, AND ASSETS OF CORPORATION

#### **§§ 2297c to 2297c-7. Repealed. Pub. L. 104-134, title III, § 3116(a)(1), Apr. 26, 1996, 110 Stat. 1321-349**

Section 2297c, act Aug. 1, 1946, ch. 724, title II, §1401, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2934; amended Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516, related to marketing and contracting authority of United States Enrichment Corporation.

Section 2297c-1, act Aug. 1, 1946, ch. 724, title II, §1402, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2934, related to Corporation pricing policy for Department of Energy and other customers.

Section 2297c-2, act Aug. 1, 1946, ch. 724, title II, §1403, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2935, related to leasing of gaseous diffusion facilities of Department of Energy.

Section 2297c-3, act Aug. 1, 1946, ch. 724, title II, §1404, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2935, related to capital structure of Corporation.

Section 2297c-4, act Aug. 1, 1946, ch. 724, title II, §1405, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2936, authorized Corporation to apply for licenses for use of patented inventions and discoveries.

Section 2297c-5, act Aug. 1, 1946, ch. 724, title II, §1406, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2936, related to liability for acts committed before and after transition date.

Section 2297c-6, act Aug. 1, 1946, ch. 724, title II, §1407, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2937, related to transfer of uranium inventories to Corporation.

Section 2297c-7, act Aug. 1, 1946, ch. 724, title II, §1408, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2937, related to purchase of highly enriched uranium from former Soviet Union.

#### EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

#### SUBCHAPTER IV—PRIVATIZATION OF CORPORATION

### §§ 2297d, 2297d-1. Repealed. Pub. L. 104-134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321-349

Section 2297d, act Aug. 1, 1946, ch. 724, title II, §1501, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2937, related to strategic plan for privatization of United States Enrichment Corporation.

Section 2297d-1, act Aug. 1, 1946, ch. 724, title II, §1502, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2938, related to implementation of privatization plan of Corporation.

#### EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

#### SUBCHAPTER V—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

### §§ 2297e to 2297e-7. Repealed. Pub. L. 104-134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321-349

Section 2297e, act Aug. 1, 1946, ch. 724, title II, §1601, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2939, related to assessment by United States Enrichment Corporation of viability of commercialization of AVLIS (atomic vapor laser isotope separation technology) and alternative uranium enrichment technologies.

Section 2297e-1, act Aug. 1, 1946, ch. 724, title II, §1602, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2939, related to transfer of rights and property to Corporation.

Section 2297e-2, act Aug. 1, 1946, ch. 724, title II, §1603, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106

Stat. 2940, related to predeployment activities by Corporation.

Section 2297e-3, act Aug. 1, 1946, ch. 724, title II, §1604, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2940; amended Pub. L. 102-572, title IX, §902(b)(2), Oct. 29, 1992, 106 Stat. 4516, related to Corporation sponsorship of private for-profit corporation to construct AVLIS and alternative technologies.

Section 2297e-4, act Aug. 1, 1946, ch. 724, title II, §1605, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2942, related to AVLIS Commercialization Fund within Corporation.

Section 2297e-5, act Aug. 1, 1946, ch. 724, title II, §1606, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2942, related to Department research and development assistance.

Section 2297e-6, act Aug. 1, 1946, ch. 724, title II, §1607, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2942, related to site selection.

Section 2297e-7, act Aug. 1, 1946, ch. 724, title II, §1608, as added Pub. L. 102-486, title IX, §901, Oct. 24, 1992, 106 Stat. 2942, related to exclusion from Price-Anderson coverage.

#### EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

#### SUBCHAPTER VI—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

### § 2297f. Gaseous diffusion facilities

#### (a) Issuance of standards

Within 2 years after October 24, 1992, the Nuclear Regulatory Commission shall establish by regulation such standards as are necessary to govern the gaseous diffusion uranium enrichment facilities of the Department in order to protect the public health and safety from radiological hazard and provide for the common defense and security. Regulations promulgated pursuant to this subsection shall, among other things, require that adequate safeguards (within the meaning of section 2167 of this title) are in place.

#### (b) Annual report

##### (1) In general

Not later than the date on which a certificate of compliance is issued under subsection (c) of this section, the Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall report to the Congress on the status of health, safety, and environmental conditions at the gaseous diffusion uranium enrichment facilities of the Department.

##### (2) Required determination

Such report shall include a determination regarding whether the gaseous diffusion uranium enrichment facilities of the Department are in compliance with the standards established under subsection (a) of this section and all applicable laws.

#### (c) Certification process

##### (1) Establishment

The Nuclear Regulatory Commission shall establish a certification process to ensure that

the Corporation complies with standards established under subsection (a) of this section.

**(2) Periodic application for certificate of compliance**

The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) of this section shall be based on the results of any such review.

**(3) Treatment of certificate of compliance**

The requirement for a certificate of compliance under paragraph (1) shall be in lieu of any requirement for a license for any gaseous diffusion facility of the Department leased by the Corporation.

**(4) NRC review**

**(A) In general**

The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review the operations of the Corporation with respect to any gaseous diffusion uranium enrichment facilities of the Department leased by the Corporation to ensure that public health and safety are adequately protected.

**(B) Access to facilities and information**

The Corporation and the Department shall cooperate fully with the Nuclear Regulatory Commission and the Environmental Protection Agency and shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with the ready access to the facilities, personnel, and information the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection. A contractor operating a Corporation facility for the Corporation shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with ready access to the facilities, personnel, and information of the contractor as the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection.

**(C) Limitation**

The Nuclear Regulatory Commission shall limit its finding under subsection (b)(2) of this section to a determination of whether the facilities are in compliance with the standards established under subsection (a) of this section.

**(d) Requirement for operation**

The gaseous diffusion uranium enrichment facilities of the Department may not be operated by the Corporation unless the Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, makes a determination of compliance under subsection (b) of this section or approves a plan prepared by the Department for achieving compliance required under subsection (b) of this section.

(Aug. 1, 1946, ch. 724, title II, § 1701, as added Pub. L. 102-486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2951; amended Pub. L. 104-134, title III, § 3116(b)(3), Apr. 26, 1996, 110 Stat. 1321-349; Pub. L. 105-362, title XII, § 1202, Nov. 10, 1998, 112 Stat. 3292.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-362 substituted “Not later than the date on which a certificate of compliance is issued under subsection (c) of this section, the Nuclear” for “The Nuclear” and struck out “at least annually” after “report”.

1996—Subsec. (c)(2). Pub. L. 104-134 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1). The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) of this section shall be based on the results of any such review.”

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

**§ 2297f-1. Licensing of other technologies**

**(a) In general**

Corporation facilities using alternative technologies for uranium enrichment, including AVLIS, shall be licensed under sections 2073, 2093, and 2243 of this title.

**(b) Costs for decontamination and decommissioning**

The Corporation shall provide for the costs of decontamination and decommissioning of any Corporation facilities described in subsection (a) of this section in accordance with the requirements of the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990.

(Aug. 1, 1946, ch. 724, title II, § 1702, as added Pub. L. 102-486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2953; amended Pub. L. 104-134, title III, § 3116(b)(4), Apr. 26, 1996, 110 Stat. 1321-349.)

REFERENCES IN TEXT

Section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990, referred to in subsec. (b), is section 5 of Pub. L. 101-575, Nov. 15, 1990, 104 Stat. 2835, which enacted section 2243 of this title and amended sections 2014, 2061, 2201, and 2284 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-134 substituted “including” for “other than” and “sections 2073, 2093, and 2243” for “sections 2073 and 2093”.

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

**§ 2297f-2. Regulation of Restricted Data**

The Corporation shall be subject to this chapter with respect to the use of, or access to, Restricted Data to the same extent as any private corporation.

(Aug. 1, 1946, ch. 724, title II, § 1703, as added Pub. L. 102-486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2953.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

## REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104-134, set out as a note under former section 2297 of this title.

## SUBCHAPTER VII—DECONTAMINATION AND DECOMMISSIONING

**§ 2297g. Uranium Enrichment Decontamination and Decommissioning Fund****(a) Establishment**

There is established in the Treasury of the United States an account to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (referred to in this subchapter as the “Fund”). The Fund, and any amounts deposited in it, including any interest earned thereon, shall be available to the Secretary subject to appropriations for the exclusive purpose of carrying out this subchapter.

**(b) Administration****(1) In general**

The Secretary of the Treasury shall hold the Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

**(2) Investments**

The Secretary of the Treasury shall invest amounts contained within the Fund in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate for what the Department determines to be the needs of the Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to these obligations.

(Aug. 1, 1946, ch. 724, title II, § 1801, as added Pub. L. 102-486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2953.)

**§ 2297g-1. Deposits****(a) Amount**

The Fund shall consist of deposits in the amount of \$518,233,333 per fiscal year (to be annually adjusted for inflation beginning on October 24, 1992, using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

**(b) Source**

Deposits described in subsection (a) of this section shall be from the following sources:

(1) Sums collected pursuant to subsection (c) of this section.

(2) Appropriations made pursuant to subsection (d) of this section.

**(c) Special assessment**

The Secretary shall collect a special assessment from domestic utilities. The total amount collected for a fiscal year shall not exceed \$150,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor). The amount collected from each utility pursuant to this subsection for a fiscal year shall be in the same ratio to the amount required under subsection (a) of this section to be deposited for such fiscal year as the total amount of separative work units such utility has purchased from the Department of Energy for the purpose of commercial electricity generation, before October 24, 1992, bears to the total amount of separative work units purchased from the Department of Energy for all purposes (including units purchased or produced for defense purposes) before October 24, 1992. For purposes of this subsection—

(1) a utility shall be considered to have purchased a separative work unit from the Department if such separative work unit was produced by the Department, but purchased by the utility from another source; and

(2) a utility shall not be considered to have purchased a separative work unit from the Department if such separative work unit was purchased by the utility, but sold to another source.

**(d) Authorization of appropriations**

There are authorized to be appropriated to the Fund, for the period encompassing 15 years after October 24, 1992, such sums as are necessary to ensure that the amount required under subsection (a) of this section is deposited for each fiscal year.

**(e) Termination of assessments**

The collection of amounts under subsection (c) of this section shall cease after the earlier of—

(1) 15 years after October 24, 1992; or

(2) the collection of \$2,250,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) under such subsection.

**(f) Continuation of deposits**

Except as provided in subsection (e) of this section, deposits shall continue to be made into the Fund under subsection (d) of this section for the period specified in such subsection.

**(g) Treatment of assessment**

Any special assessment levied under this section on domestic utilities for the decontamination and decommissioning of the Department's gaseous diffusion enrichment facilities shall be deemed a necessary and reasonable current cost of fuel and shall be fully recoverable in rates in all jurisdictions in the same manner as the utility's other fuel cost.

(Aug. 1, 1946, ch. 724, title II, § 1802, as added Pub. L. 102-486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2953; amended Pub. L. 105-388, § 11(c), Nov. 13, 1998, 112 Stat. 3485; Pub. L. 107-222, § 1(c), Aug. 21, 2002, 116 Stat. 1336.)

## AMENDMENTS

2002—Subsec. (a). Pub. L. 107-222 substituted “\$518,233,333” for “\$488,333,333” and inserted “beginning on October 24, 1992,” after “inflation”.

1998—Subsec. (a). Pub. L. 105-388 substituted “\$488,333,333” for “\$480,000,000”.

**§ 2297g-2. Department facilities****(a) Study by National Academy of Sciences**

The National Academy of Sciences shall conduct a study and provide recommendations for reducing costs associated with decontamination and decommissioning, and shall report its findings to the Congress within 3 years after October 24, 1992. Such report shall include a determination of the decontamination and decommissioning required for each facility, shall identify alternative methods, using different technologies, shall include site-specific surveys of the actual contamination, and shall provide estimated costs of those activities.

**(b) Payment of decontamination and decommissioning costs**

The costs of all decontamination and decommissioning activities of the Department shall be paid from the Fund until such time as the Secretary certifies and the Congress concurs, by law, that such activities are complete.

**(c) Payment of remedial action costs**

The annual cost of remedial action at the Department's gaseous diffusion facilities shall be paid from the Fund to the extent the amount available in the Fund is sufficient. To the extent the amount in the Fund is insufficient, the Department shall be responsible for the cost of remedial action. No provision of this division may be construed to relieve in any way the responsibility or liability of the Department for remedial action under applicable Federal and State laws and regulations.

(Aug. 1, 1946, ch. 724, title II, § 1803, as added Pub. L. 102-486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2954.)

**§ 2297g-3. Employee provisions**

All laborers and mechanics employed by contractors or subcontractors in the performance of decontamination or decommissioning of uranium enrichment facilities of the Department shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with sections 3141-3144,

3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and section 3145 of title 40. This section may not be construed to require the contracting out of activities associated with the decontamination or decommissioning of uranium enrichment facilities.

(Aug. 1, 1946, ch. 724, title II, § 1804, as added Pub. L. 102-486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2955.)

## REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

## CODIFICATION

In text, “sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.)” and “section 3145 of title 40” substituted for “the Act of June 13, 1934 (40 U.S.C. 276c)”, on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

**§ 2297g-4. Reports to Congress**

Within 3 years after October 24, 1992, and at least once every 3 years thereafter, the Secretary shall report to the Congress on progress under this subchapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this division.

(Aug. 1, 1946, ch. 724, title II, § 1805, as added Pub. L. 102-486, title XI, § 1101, Oct. 24, 1992, 106 Stat. 2955.)

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under this section is listed in item 7 on page 83), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

## SUBCHAPTER VIII—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

**§ 2297h. Definitions**

Except as provided in section 2297h-10a of this title, for purposes of this subchapter:

(1) The term “AVLIS” means atomic vapor laser isotope separation technology.

(2) The term “Corporation” means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term “gaseous diffusion plants” means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term “highly enriched uranium” means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term “low-enriched uranium” means uranium enriched to less than 20 percent of

the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term “low-level radioactive waste” has the meaning given such term in section 2021b(9) of this title.

(7) The term “private corporation” means the corporation established under section 2297h-3 of this title.

(8) The term “privatization” means the transfer of ownership of the Corporation to private investors.

(9) The term “privatization date” means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term “public offering” means an underwritten offering to the public of the common stock of the private corporation pursuant to section 2297h-2 of this title.

(11) The “Russian HEU Agreement” means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term “Secretary” means the Secretary of Energy.

(13) The “Suspension Agreement” means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term “uranium enrichment” means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

(Pub. L. 104-134, title III, §3102, Apr. 26, 1996, 110 Stat. 1321-335; Pub. L. 110-329, div. C, title VIII, §8118(1), Sept. 30, 2008, 122 Stat. 3647.)

#### REFERENCES IN TEXT

This subchapter, referred to in text, means subchapter A of chapter 1 of title III of Pub. L. 104-134, Apr. 26, 1996, 110 Stat. 1321-335, known as the USEC Privatization Act, which is classified principally to this subchapter. For complete classification of subchapter A to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

#### AMENDMENTS

2008—Pub. L. 110-329 substituted “Except as provided in section 2297h-10a of this title, for purposes” for “For purposes” in introductory provisions.

#### EX. ORD. NO. 13085. ESTABLISHMENT OF ENRICHMENT OVERSIGHT COMMITTEE

Ex. Ord. No. 13085, May 26, 1998, 63 F.R. 29335, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the national security and other interests of the United States with regard to uranium enrichment and related businesses after the privatization of the United States Enrichment Corporation (USEC), it is ordered as follows:

SECTION 1. *Establishment.* There is hereby established an Enrichment Oversight Committee (EOC).

SEC. 2. *Objectives.* The EOC shall monitor and coordinate United States Government efforts with respect to the privatized USEC and any successor entities involved in uranium enrichment and related businesses in furtherance of the following objectives:

(a) The full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium (HEU) Extracted from Nuclear Weapons, dated February 18, 1993 (“HEU Agreement”), and related contracts and agreements by the USEC as executive agent or by any other executive agents;

(b) The application of statutory, regulatory, and contractual restrictions on foreign ownership, control, or influence in the USEC, any successor entities, and any other executive agents;

(c) The development and implementation of United States Government policy regarding uranium enrichment and related technologies, processes, and data; and

(d) The collection and dissemination of information relevant to any of the foregoing on an ongoing basis, including from the Central Intelligence Agency and the Federal Bureau of Investigation.

SEC. 3. *Organization.* (a) The EOC shall be Chaired by a senior official from the National Security Council (NSC). The Chair shall coordinate the carrying out of the purposes and policy objectives of this order. The EOC shall meet as often as appropriate, but at least quarterly, and shall submit reports to the Assistant to the President for National Security Affairs semiannually, or more frequently as appropriate. The EOC shall prepare annually the report for the President’s transmittal to the Congress pursuant to section 3112 of the USEC Privatization Act, Public Law 104-134, title III, 3112(b)(10), 110 Stat. 1321-344, 1321-346 (1996) [42 U.S.C. 2297h-10(b)(10)].

(b) The EOC shall consist of representatives from the Departments of State, the Treasury, Defense, Justice, Commerce, Energy, and the Office of Management and Budget, the NSC, the National Economic Council, the Council of Economic Advisers, and the Intelligence Community. The EOC shall formulate internal guidelines for its operations, including guidelines for convening meetings.

(c) The EOC shall coordinate sharing of information and provide direction, while operational responsibilities resulting from the EOC’s oversight activities will rest with EOC member agencies.

(d) At the request of the EOC, appropriate agencies, including the Department of Energy, shall provide day-to-day support for the EOC.

SEC. 4. *HEU Agreement Oversight.* The EOC shall form an HEU Agreement Oversight Subcommittee (the “Subcommittee”) in order to continue coordination of the implementation of the HEU Agreement and related contracts and agreements, monitor actions taken by the executive agent, and make recommendations regarding steps designed to facilitate full implementation of the HEU Agreement, including changes with respect to the executive agent. The Subcommittee shall be chaired by a senior official from the NSC and shall include representatives of the Departments of State, Defense, Justice, Commerce, and Energy, and the Office of Management and Budget, the National Economic Council, the Intelligence Community, and, as appropriate, the United States Trade Representative, and the Council of Economic Advisers. The Subcommittee shall meet as appropriate to review the implementation of the HEU Agreement and consider steps to facilitate full implementation of that Agreement. In particular, the Subcommittee shall:

(a) have access to all information concerning implementation of the HEU Agreement and related contracts and agreements;

(b) monitor negotiations between the executive agent or agents and Russian authorities on implementation of the HEU Agreement, including the proposals of both sides on delivery schedules and on price;

(c) monitor sales of the natural uranium component of low-enriched uranium derived from Russian HEU pursuant to applicable law;

(d) establish procedures for designating alternative executive agents to implement the HEU Agreement;

(e) coordinate policies and procedures regarding the full implementation of the HEU purchase agreement and related contracts and agreements, consistent with applicable law; and

(f) coordinate the position of the United States Government on any issues that arise in the implementation of the Memorandum of Agreement with the USEC for the USEC to serve as the United States Government Executive Agent under the HEU Agreement.

SEC. 5. *Foreign Ownership, Control, or Influence (FOCI).* The EOC shall collect information and monitor issues relating to foreign ownership, control, or influence of the USEC or any successor entities. Specifically, the EOC shall:

(a) monitor the application and enforcement of the FOCI requirements of the National Industrial Security Program established by Executive Order 12829 [50 U.S.C. 3161 note] with respect to the USEC and any successor entities (see National Industrial Security Program Operating Manual, Department of Defense 2-3 (Oct. 1994));

(b) monitor and review reports and submissions relating to FOCI issues made by the USEC or any successor entity to the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.* (1994), and the USEC Privatization Act, Public Law 104-134, title III, 110 Stat. 1321-335 *et seq.* (1996) [42 U.S.C. 2297h *et seq.*];

(c) ensure coordination with the Intelligence Community of the collection and analysis of intelligence and ensure coordination of intelligence with other information related to FOCI issues; and

(d) ensure coordination with the Committee on Foreign Investment in the United States.

SEC. 6. *Domestic Enrichment Services.* The EOC shall collect and analyze information related to the maintenance of domestic uranium mining, enrichment, and conversion industries, provided that such activities shall be undertaken in a manner that provides appropriate protection for such information. In particular, the EOC shall:

(a) collect and review all public filings made by or with respect to the USEC or any successor entities with the Securities and Exchange Commission;

(b) collect information from all available sources necessary for the preparation of the annual report to the Congress required by section 3112 of the USEC Privatization Act [42 U.S.C. 2297h-10], as noted in section 3(a) of this order, including information relating to plans by the USEC or any successor entities to expand or contract materially the enrichment of uranium-using gaseous diffusion technology;

(c) collect information relating to the development and implementation of atomic vapor laser isotope separation technology;

(d) to the extent permitted by law, and as necessary to fulfill the EOC's oversight functions, collect proprietary information from the USEC, or any successor entities, provided that the collection of such information shall be undertaken so as to minimize disruption to the normal functioning of the private corporation. For example, such information would include the USEC's financial statements prepared in accordance with standards applicable to public registrants and the executive summary of the USEC's strategic plan as shared with its Board of Directors, as well as timely information on its unit production costs, capacity utilization rates, average pricing and sales for the current year and for new contracts, employment levels, overseas activities, and research and development initiatives. Such information shall be collected on an annual basis, with quarterly updates as appropriate; and

(e) coordinate with relevant agencies in monitoring the levels of natural and enriched uranium and enrichment services imported into the United States.

SEC. 7. *Coordination with the Nuclear Regulatory Commission.* Upon notification by the NRC that it seeks the

views of other agencies of the executive branch regarding determinations necessary for the issuance, reissuance, or renewal of a certificate of compliance or license to the privatized USEC, the EOC shall convey the relevant views of these other agencies of the executive branch, including whether the applicant's performance as the United States agent for the HEU Agreement is acceptable, on a schedule consistent with the NRC's need for timely action on such regulatory decisions.

WILLIAM J. CLINTON.

## § 2297h-1. Sale of Corporation

### (a) Authorization

The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

### (b) Proceeds

Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

(Pub. L. 104-134, title III, § 3103, Apr. 26, 1996, 110 Stat. 1321-336.)

## CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

## § 2297h-2. Method of sale

### (a) Authorization

The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 2297h-3 of this title (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

### (b) Board determination

The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

### (c) Adequate proceeds

The Secretary of the Treasury shall not allow the privatization of the Corporation unless be-

fore the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 2297h-1(a) of this title.

**(d) Application of securities laws**

Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

**(e) Expenses**

Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

(Pub. L. 104-134, title III, §3104, Apr. 26, 1996, 110 Stat. 1321-336.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (d), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (d), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

**§ 2297h-3. Establishment of private corporation**

**(a) Incorporation**

(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18.

**(b) Status of private corporation**

(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private cor-

poration shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28 shall be allowable against the United States based on actions of the private corporation.

**(c) Application of post-Government employment restrictions**

Beginning on the privatization date, the restrictions stated in section 207(a), (b), (c), and (d) of title 18 shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

**(d) Dissolution**

In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

(Pub. L. 104-134, title III, §3105, Apr. 26, 1996, 110 Stat. 1321-337.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

**§ 2297h-4. Transfers to private corporation**

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 2297h-5 of this title,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 2297h-6(a) of this title,

(4) the Corporation's right to purchase power from the Secretary under section 2297h-6(b) of this title,

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

(Pub. L. 104-134, title III, §3106, Apr. 26, 1996, 110 Stat. 1321-338.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

**§ 2297h-5. Leasing of gaseous diffusion facilities**

**(a) Transfer of lease**

Concurrent with privatization, the Corporation shall transfer to the private corporation

the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

**(b) Renewal**

The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

**(c) Exclusion of facilities for production of highly enriched uranium**

The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

**(d) DOE responsibility for preexisting conditions**

The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

**(e) Environmental audit**

For purposes of subsection (d) of this section, the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c-2(e)).

**(f) Treatment under Price-Anderson provisions**

Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

**(g) Waiver of EIS requirement**

The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of section 4332 of this title.

**(h) Maintenance of security**

**(1) In general**

With respect to the Paducah Gaseous Diffusion Plant, Kentucky, and the Portsmouth Gaseous Diffusion Plant, Ohio, the guidelines relating to the authority of the Department of Energy's contractors (including any Federal agency, or private entity operating a gaseous diffusion plant under a contract or lease with the Department of Energy) and any subcontractor (at any tier) to carry firearms and make arrests in providing security at Federal installations, issued under section 2201(k) of this title shall require, at a minimum, the presence of all security police officers carrying sidearms at all times to ensure maintenance of security at the gaseous diffusion

plants (whether a gaseous diffusion plant is operated directly by a Federal agency or by a private entity under a contract or lease with a Federal agency).

**(2) Funding**

(A) The costs of arming and providing arrest authority to the security police officers required under paragraph (1) shall be paid as follows:

(i) the Department of Energy (the "Department") shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are: (I) employees of the Department or the contractor or subcontractors of the Department; or (II) employees of the private entity leasing the gaseous diffusion plant who perform work on behalf of the Department (including employees of a contractor or subcontractor of the private entity); and

(ii) the private entity leasing the gaseous diffusion plant shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are employees of the private entity (including employees of a contractor or subcontractor) other than those employees who perform work for the Department.

(B) Neither the private entity leasing the gaseous diffusion plant nor the Department shall reduce its payments under any contract or lease or take other action to offset its share of the costs referred to in subparagraph (A), and the Department shall not reimburse the private entity for the entity's share of these costs.

(C) Nothing in this subsection shall alter the Department's responsibilities to pay the safety, safeguards and security costs associated with the Department's highly enriched uranium activities.

(Pub. L. 104-134, title III, §3107, Apr. 26, 1996, 110 Stat. 1321-338; Pub. L. 105-62, title V, §511, Oct. 13, 1997, 111 Stat. 1341; Pub. L. 105-245, title III, §310, Oct. 7, 1998, 112 Stat. 1853.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (c), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter (§2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105-245 substituted "all security police officers" for "an adequate number of security guards" in par. (1) and added par. (2).

1997—Subsec. (h). Pub. L. 105-62 added subsec. (h).

**§ 2297h-6. Transfer of contracts**

**(a) Transfer of contracts**

Concurrent with privatization, the Corporation shall transfer to the private corporation all

contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 2297c(b) of this title, or

(2) entered into by the Corporation before the privatization date.

**(b) Nontransferable power contracts**

The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

**(c) Effect of transfer**

(1) Notwithstanding subsection (a) of this section, the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) of this section for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) of this section is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a) of this section, and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

**(d) Pricing**

The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

(Pub. L. 104-134, title III, §3108, Apr. 26, 1996, 110 Stat. 1321-339.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

**§ 2297h-7. Liabilities**

**(a) Liability of United States**

(1) Except as otherwise provided in this subchapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) of this section or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

**(b) Liability of Corporation**

Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 2297h-6 of this title or any other action the Corporation is required to take under this subchapter.

**(c) Liability of private corporation**

Except as provided in this subchapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

**(d) Liability of officers and directors**

(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act

of 1934 (15 U.S.C. 78a et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

(Pub. L. 104-134, title III, §3109, Apr. 26, 1996, 110 Stat. 1321-339.)

#### REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (d)(2), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (d)(2), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

#### CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

### § 2297h-8. Employee protections

#### (a) Contractor employees

(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the

extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass lay-off (as such terms are defined in section 2101(a)(2) and (3) of title 29) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h-7274i).<sup>1</sup>

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 185<sup>1</sup> of title 29.

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Rela-

<sup>1</sup> See References in Text note below.

tions Act [29 U.S.C. 151 et seq.], may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(8) CONTINUITY OF BENEFITS.—To the extent appropriations are provided in advance for this purpose or are otherwise available, not later than 30 days after August 8, 2005, the Secretary shall implement such actions as are necessary to ensure that any employee who—

(A) is involved in providing infrastructure or environmental remediation services at the Portsmouth, Ohio, or the Paducah, Kentucky, Gaseous Diffusion Plant;

(B) has been an employee of the Department of Energy's predecessor management and integrating contractor (or its first or second tier subcontractors), or of the Corporation, at the Portsmouth, Ohio, or the Paducah, Kentucky, facility; and

(C) was eligible as of April 1, 2005, to participate in or transfer into the Multiple Employer Pension Plan or the associated multiple employer retiree health care benefit plans, as defined in those plans,

shall continue to be eligible to participate in or transfer into such pension or health care benefit plans.

**(b) Former Federal employees**

(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes the election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5 for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required or authorized by sections 8432 and 8351 of title 5 for employees who elect to retain their coverage under CSRS or FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5 for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5 for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

(Pub. L. 104-134, title III, §3110, Apr. 26, 1996, 110 Stat. 1321-340; Pub. L. 104-206, title III, Sept. 30, 1996, 110 Stat. 2995; Pub. L. 109-58, title VI, §633, Aug. 8, 2005, 119 Stat. 790.)

REFERENCES IN TEXT

The National Labor Relations Act, referred to in subsec. (a)(3), (7)(C), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993, referred to in sub-

sec. (a)(5), were classified to sections 7274h and 7274i, respectively, of this title and were renumbered sections 4604 and 4643, respectively, of Pub. L. 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108-136, div. C, title XXXI, § 3141(i)(5)(A)–(C), (14)(A)–(C), Nov. 24, 2003, 117 Stat. 1777, 1779, 1780, which are classified to sections 2704 and 2733, respectively, of Title 50, War and National Defense.

Section 185 of title 29, referred to in subsec. (a)(7)(A), was in the original “section 301 of the Labor Management Relations Act (29 U.S.C. 185)”, and has been translated as reading section 301 of the Labor Management Relations Act, 1947, to reflect the probable intent of Congress.

#### CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

#### AMENDMENTS

2005—Subsec. (a)(8). Pub. L. 109-58 added par. (8).

1996—Subsec. (b)(3). Pub. L. 104-206 which directed the amendment of subsec. (b) by inserting par. (3), was executed to reflect the probable intent of Congress by substituting par. (3) for former par. (3) which read as follows: “The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5 for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).”

### § 2297h-9. Ownership limitations

#### (a) Securities limitations

No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

#### (b) Ownership limitation

Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

(Pub. L. 104-134, title III, § 3111, Apr. 26, 1996, 110 Stat. 1321-343.)

#### CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

### § 2297h-10. Uranium transfers and sales

#### (a) Transfers and sales by Secretary

The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

#### (b) Russian HEU

(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U<sup>235</sup>. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of April 26, 1996, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,<sup>1</sup>

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U<sub>3</sub>O<sub>8</sub> equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U<sup>235</sup>. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive

<sup>1</sup> So in original.

Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or  $U_3O_8$  (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30  $U^{235}$ . Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

<b>Annual Maximum Deliveries to End Users</b>	
<b>Year:</b>	<b>(millions lbs. <math>U_3O_8</math> equivalent)</b>
1998 .....	2
1999 .....	4
2000 .....	6
2001 .....	8
2002 .....	10
2003 .....	12
2004 .....	14
2005 .....	16
2006 .....	17
2007 .....	18

#### Annual Maximum Deliveries to End Users—Continued

	<b>(millions lbs. <math>U_3O_8</math> equivalent)</b>
2008 .....	19
2009 and each year thereafter .....	20.

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

#### (c) Transfers to Corporation

(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2) of this section.

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

**(d) Inventory sales**

(1) In addition to the transfers authorized under subsections (c) and (e) of this section, the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e) of this section, no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

**(e) Government transfers**

Notwithstanding subsection (d)(2) of this section, the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

**(f) Savings provision**

Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

(Pub. L. 104-134, title III, § 3112, Apr. 26, 1996, 110 Stat. 1321-344.)

**CODIFICATION**

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

**TRANSFER OF FUNCTIONS**

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 2297h-10a. Incentives for additional downblending of highly enriched uranium by the Russian Federation**

**(a) Definitions**

In this section:

**(1) Completion of the Russian HEU Agreement**

The term “completion of the Russian HEU Agreement” means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

**(2) Downblending**

The term “downblending” means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

**(3) Highly enriched uranium**

The term “highly enriched uranium” has the meaning given that term in section 2297h(4) of this title.

**(4) Highly enriched uranium of weapons origin**

The term “highly enriched uranium of weapons origin” means highly enriched uranium that—

(A) contains 90 percent or more uranium-235; and

(B) is verified by the Secretary of Energy to be of weapons origin.

**(5) Low-enriched uranium**

The term “low-enriched uranium” means a uranium product in any form, including uranium hexafluoride (UF<sub>6</sub>) and uranium oxide (UO<sub>2</sub>), in which the uranium contains less than 20 percent uranium-235, including natural uranium, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

**(6) Russian HEU Agreement**

The term “Russian HEU Agreement” has the meaning given that term in section 2297h(11) of this title.

**(7) Uranium-235**

The term “uranium-235” means the isotope <sup>235</sup>U.

**(b) Statement of policy**

It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

**(c) Promotion of downblending of Russian highly enriched uranium****(1) Completion of the Russian HEU Agreement**

Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement, may not exceed the following amounts:

(A) In the 4-year period beginning with calendar year 2008, 16,559 kilograms.

(B) In calendar year 2012, 24,839 kilograms.

(C) In calendar year 2013 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, 41,398 kilograms.

**(2) Incentives to continue downblending Russian highly enriched uranium after the completion of the Russian HEU Agreement**

**(A) In general**

After the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed—

- (i) in calendar year 2014, 485,279 kilograms;
- (ii) in calendar year 2015, 455,142 kilograms;
- (iii) in calendar year 2016, 480,146 kilograms;
- (iv) in calendar year 2017, 490,710 kilograms;
- (v) in calendar year 2018, 492,731 kilograms;
- (vi) in calendar year 2019, 509,058 kilograms; and
- (vii) in calendar year 2020, 514,754 kilograms.

**(B) Additional imports in exchange for a commitment to downblend an additional 300 metric tons of highly enriched uranium**

**(i) In general**

In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), if the Russian Federation enters into a bilateral agreement with the United States under which the Russian Federation agrees to downblend an additional 300 metric tons of highly enriched uranium after the completion of the Russian HEU Agreement, 4 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin and including low-enriched uranium obtained under contracts for separative work units, may be imported in a calendar year for every 1 kilogram of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

**(ii) Maximum annual imports**

Not more than 120,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

**(3) Exceptions**

The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States—

- (A) for use in the initial core of a new nuclear reactor;
- (B) for processing and to be certified for reexportation and not for consumption in the United States; or

(C) to be added to the inventory of the Department of Energy.

**(4) Limited waiver authority**

**(A) In general**

Notwithstanding paragraph (1)(C), if the completion of the Russian HEU Agreement does not occur before December 31, 2013, the import limitations under paragraph (1)(C) shall be waived, and low-enriched uranium may be imported into the United States in the quantities specified in paragraph (2) in a calendar year after 2013, if—

(i) the Secretary of Energy and the Secretary of State jointly determine that—

(I) the failure of the completion of the Russian HEU Agreement arises from causes beyond the control and without the fault or negligence of the Government of the Russian Federation; and

(II) the Government of the Russian Federation has made reasonable efforts to avoid and mitigate the effects of the failure of the completion of the Russian HEU Agreement; and

(ii) the Secretary of Energy and the Secretary of State jointly notify Congress of, and publish in the Federal Register, the determination under clause (i) and the reasons for the determination.

**(B) Notice and wait**

A waiver under subparagraph (A) may not take effect until the date that is 180 days after the date on which Secretary of Energy and the Secretary of State notify Congress under subparagraph (A)(ii).

**(C) Termination**

A waiver under subparagraph (A) shall terminate on December 31 of the calendar year with respect to which the Secretary makes the determination under subparagraph (A)(i).

**(5) Adjustments to import limitations**

**(A) In general**

The import limitations described in paragraph (2)(A) are based on the reference data in the 2005 Market Report on the Global Nuclear Fuel Market Supply and Demand 2005–2030 of the World Nuclear Association. In each of calendar years 2016 and 2019, the Secretary of Commerce shall review the projected demand for uranium for nuclear reactors in the United States and adjust the import limitations described in paragraph (2)(A) to account for changes in such demand in years after the year in which that report or a subsequent report is published.

**(B) Incentive adjustment**

Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2)(B) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a

percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

**(C) Publication of adjustments**

As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustments under subparagraph (B).

**(6) Authority for additional adjustment**

In addition to the adjustment under paragraph (5)(A), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

**(7) Equivalent quantities of low-enriched uranium imports**

**(A) In general**

The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

**(B) Adjustment for other uranium**

Imports of low-enriched uranium under paragraphs (1) and (2), including low-enriched uranium obtained under contracts for separative work units, shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

**(8) Downblending of other highly enriched uranium**

**(A) In general**

The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

**(B) Equivalent quantities of highly enriched uranium**

For purposes of determining the additional low-enriched uranium imports allowed under

paragraph (2)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

**(9) Termination of import restrictions**

The provisions of this subsection shall terminate on December 31, 2020.

**(10) Technical verifications by Secretary of Energy**

**(A) In general**

The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B) and (8).

**(B) Methods of verification**

In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures and access provisions agreed to under the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

**(11) Enforcement of import limitations**

The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

**(12) Effect on other agreements**

**(A) Russian HEU Agreement**

Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

**(B) Other agreements**

If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.

(Pub. L. 104-134, title III, §3112A, as added Pub. L. 110-329, div. C, title VIII, §8118(2), Sept. 30, 2008, 122 Stat. 3647.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as

part of the Atomic Energy Act of 1954 which comprises this chapter.

**§ 2297h–10b. Secretarial determinations; congressional notification**

**(a) Secretarial determinations**

In this fiscal year, and in each subsequent fiscal year, any determination (including a determination made prior to December 16, 2014) by the Secretary of Energy under section 2297h–10(d)(2)(B) of this title shall be valid for not more than 2 calendar years subsequent to such determination.

**(b) Congressional notification**

In this fiscal year, and in each subsequent fiscal year, not less than 30 days prior to the provision of uranium in any form the Secretary of Energy shall notify the Committees on Appropriations of the House of Representatives and the Senate of the following—

- (1) the provisions of law (including regulations) authorizing the provision of uranium;
- (2) the amount of uranium to be provided;
- (3) an estimate by the Secretary of Energy of the gross fair market value of the uranium on the expected date of the provision of the uranium;
- (4) the expected date of the provision of the uranium;
- (5) the recipient of the uranium;
- (6) the value the Secretary of Energy expects to receive in exchange for the uranium, including any adjustments to the gross fair market value of the uranium; and
- (7) whether the uranium to be provided is encumbered by any restriction on use under an international agreement or otherwise.

(Pub. L. 113–235, div. D, title III, § 306, Dec. 16, 2014, 128 Stat. 2324.)

**CODIFICATION**

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

**§ 2297h–11. Low-level waste**

**(a) Responsibility of DOE**

(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

- (A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or
- (B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 2073, 2093, and 2243 of this title.

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any

capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(4) In the event that a licensee requests the Secretary to accept for disposal depleted uranium pursuant to this subsection, the Secretary shall be required to take title to and possession of such depleted uranium at an existing DUF6 storage facility.

**(b) Agreements with other persons**

The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) of this section with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

**(c) State or interstate compacts**

Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

(Pub. L. 104–134, title III, § 3113, Apr. 26, 1996, 110 Stat. 1321–347; Pub. L. 108–447, div. C, title III, § 311, Dec. 8, 2004, 118 Stat. 2959.)

**CODIFICATION**

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

**AMENDMENTS**

2004—Subsec. (a)(4). Pub. L. 108–447, § 311, which directed the addition of par. (4) to subsec. (a) of section 3113 of Public Law 102–486 (42 U.S.C. 2297h–11), was executed by adding par. (4) to subsec. (a) of this section, which is section 3113 of Pub. L. 104–134, to reflect the probable intent of Congress.

**§ 2297h–12. AVLIS**

**(a) Exclusive right to commercialize**

The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

**(b) Transfer of related property to Corporation**

**(1) In general**

To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in

the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

### (2) Exception

Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

### (3) Expiration of transfer authority

The President's authority to transfer property under this subsection shall expire upon the privatization date.

### (c) Liability for patent and related claims

With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b) of this section, the Corporation shall have sole liability for any payments made or awards under section 157b.(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

(Pub. L. 104-134, title III, §3114, Apr. 26, 1996, 110 Stat. 1321-348.)

#### REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(1), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter (§2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

## § 2297h-13. Application of certain laws

### (a) OSHA

(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after April 26, 1996, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

### (b) Antitrust laws

For purposes of the antitrust laws, the performance by the private corporation of a

“matched import” contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

### (c) Energy Reorganization Act requirements

(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 5851 of this title to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 5846 of this title shall apply to the directors and officers of the private corporation.

(Pub. L. 104-134, title III, §3115, Apr. 26, 1996, 110 Stat. 1321-348.)

#### REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (a)(1), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

#### CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

## CHAPTER 24—DISPOSAL OF ATOMIC ENERGY COMMUNITIES

### SUBCHAPTER I—GENERAL PROVISIONS

Sec. 2301.	Congressional declaration of policy.
2302.	Congressional findings.
2303.	Purpose of chapter.
2304.	Definitions.
2305.	Powers of Atomic Energy Commission.
2306.	Qualification to purchase.
2307.	Form and contents of contracts, mortgages, and other instruments.
2308.	Conclusive evidence of compliance with chapter.
2309.	Administrative review.
2310.	Repossession of property; powers of Commission.
2311.	Community Disposal Operations Fund.
2312.	Authorization of appropriations.
2313.	Transfer of functions.
2314, 2315.	Repealed.

### SUBCHAPTER II—LOTS, APPRAISALS, AND PRICES

2321.	Lots; establishment of boundaries.
2322.	Appraisal of property.
2323.	Basis of appraisal.
2324.	Posting of lists showing appraised value.
2325.	Sales price.
2326.	Deductions from sales price.

### SUBCHAPTER III—CLASSIFICATION OF PROPERTY AND PRIORITIES

2331.	Classification of property.
2332.	Priorities; uniformity; preferences; impairment of rights.
2333.	Transfer of priorities.

### SUBCHAPTER IV—SALES OF PROPERTY FOR PRIVATE USE

2341.	Applicability of subchapter.
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